



CT TEACHERS' RETIREMENT BOARD

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Revised Guidance Reemployment of Retired Teachers

This revised guidance is being issued, primarily, to clarify that a minimum six month break in service is required for retired members (who did not meet the "normal" retirement benefit criteria upon retirement or who have not attained the age of 62 at the time of reemployment) who are under consideration for reemployed in a teaching assignment in CT, regardless of what teaching assignment they are being hired for or which employing district is reemploying them. If a member retired prior to July 1, 2016, and have been reemployed as a public school teacher following their retirement without meeting the above stated criteria, there must be a minimum six month break in service at this time without a prior arrangement to reemploy them in six months.

DEFINITION OF TEACHER

1) The term "Teacher" is defined by Connecticut statute CGS § 10-183b (26) and includes teachers, permanent substitute teachers, principals, assistant principals, supervisors, assistant superintendents and superintendents, among other groups. Whenever the term teacher is used in this Bulletin, it is intended to mean all of the groups contained in this statutory definition.

FEDERAL PENSION RULES

2) What do the Federal tax laws applicable to pension plans require for starting receipt of benefits under a qualified pension?

Section 401(a) of the Internal Revenue Code prohibits a qualified pension plan, such as the Connecticut Teachers' Retirement Board (governed under CGS §10-183), from commencing a member's pension benefits prior to his or her actual retirement as defined under the terms of the plan. The IRS code permits a teacher who has retired

under the TRB system to return to work as a teacher and continue to receive his or her TRB pension benefits during such reemployment. The Connecticut statute does not override IRS rules that require one to actually retire (subject to exceptions explained below) before he or she can start receiving his or her pension. In order for a pension plan and its members to receive the tax benefits as qualified, pension plan sponsors (such as TRB), must operate their pension plans in accordance with IRS requirements. Therefore, TRB is concerned about pensions starting for employees who have not truly retired from their employers. These types of “sham” retirements present a serious IRS code compliance problem for the TRB system. To address that concern, TRB will start requiring persons who have either started their TRB pensions (1) before reaching the definition of normal retirement in the TRB statute, or (2) before turning age 62 in cases where the person hasn’t met the normal retirement statutory rules, to have at least a 6-month break in service before going back to work as a teacher. If the person doesn’t have a break lasting that long, then his or her pension will be suspended and any duplicate compensation will be reimbursed to TRB by the member.

3) Are there limitations on my ability to receive pension benefits from TRB while being reemployed by a CT public school district?

Yes, Federal tax law applicable to pension plans requires that the employer (Superintendent’s action on behalf of the Board of Education) and the employee reemployed (retired teacher) follow certain rules in order to be reemployed. A teacher may be reemployed if they are 62 and retired, have normal retirement status under the TRB system (20 years and age 60, or 35 years of credited service at any age, of which at least 25 are in the public schools of CT); or if the reemployment is considered to be a bona fide “arm’s length” employment. For the purpose of these guidelines, the TRB adopted a policy that requires a separation of duty from teaching in any CT school district for a minimum of six months in order for reemployment to be considered an “arm’s length”. The TRB now requires that the Superintendent certify that your reemployment is based upon an arm’s length transaction.

4) What are the IRS rules that apply to when I can be reemployed and receive my pension benefits?

Federal law and the IRS rules prohibit Pension Plans from starting pension payments to an employed individual who is under age 62 and has not retired or separated from employment, unless the employee has reached the plan’s normal retirement age. If an individual retires prior to that, tax law and IRS rules require that in order to be treated as retired and eligible to start his or her pension, there must first be a bona fide separation in employment. Because the tax law and IRS rules allow individuals who reach age 62 to start receiving their pensions even if they remain employed, people who have reached age 62 or older may commence their pensions without having an actual bona fide separation in employment. They may be reemployed pursuant to CGS §10-183v(a)

(e.g., receive pay up to the 45 percent limit or 100% if covered by shortage or priority school district rules) and still collect a pension from TRB.

5) If a retired teacher has not met the normal retirement provisions of TRB (20 years and age 60 or any age after 35 years of credited service of which at least 25 are in the public schools of CT) and is not yet age 62, what must the teacher do to be eligible to work under the 45 percent rule?

To meet the IRS standards there must be a true bona fide separation from employment with no arrangement to return to the same type of job before leaving active employment (e.g. as a classroom teacher, as a certified school administrator, etc.). TRB will require this teacher to follow certain requirements. First, they must have a break in service of at least six months in order to demonstrate that they are not engaging in a sham retirement (e.g. if a teacher retires in June, the minimum required six-month break in service would mean they would be able to return to teaching in January). Second, there must not be a pre-arranged plan, arrangement, understanding or agreement to return to work between the employer and the reemployed teacher. The mere changing of status from employee to a contractor will not satisfy this requirement. Third, the superintendent must attest to the absence of any pre-arranged plan, arrangement, understanding or agreement between the employer and the employee. Fourth, in the case of employment arrangements for the Superintendent, an Officer (Chair, Vice Chair, Secretary) of the Board of Education must provide the TRB with a certification to evidence the absence of any pre-arranged plan, arrangement, understanding or agreement between the employer and the employee (plan participant).

6) What are the penalties if the retirement is viewed as a sham?

Pension plans that permit retirees under the age of 62 to be rehired after a short absence are viewed by the IRS as sham retirements. A determination by the IRS that a retirement is a sham exposes you, the school district and the plan (such as the TRB system) to severe consequences, including the possible disqualification of the plan. If it is determined that you have engaged in a sham retirement (one where you leave a full time position and are reemployed in a non-arm's length transaction) then you, the school district and plan may be subject to fines, penalties and disqualification of the pension plan's favored tax status.

CONNECTICUT ATTORNEY GENERAL OPINION

7) Does the Attorney General's 2015 opinion on reemployment of teachers or the new legislation affect teacher or administrator's reimbursement of business expenses?

No. A member is entitled to reimbursement for necessary business expenses of the district as recognized by IRS regulations. The AG's opinion is related to items that are fringe benefits such as annuities, car allowances in excess of IRS limits, meal allowances not for purposes of district business, cell phone allowances in excess of actual cost, etc. Reimbursements for actual business expenses, such as travel, meals and other expenses allowed for necessary business uses of the district continue to be permitted.

8) The 2015 Attorney General's opinion on teacher reemployment provided for no additional fringe benefits (e.g., the opinion states that only allowable form of compensation is salary) while reemployed under the 45 percent rule. How is that affected by the 2016 legislation?

The new legislation provides for reemployed teachers receiving pension benefits to be compensated in the form of salary, but now also allows for health insurance to be provided to the retiree. Other types of fringe benefits are still prohibited.

CONNECTICUT RULES

9) How can Connecticut retired teachers receiving pension benefits from the Teachers' Retirement Board thereafter return to work in a teacher position for an entity that participates in TRB?

Subject to IRS and TRB rules, there are three ways:

1. A retired teacher may return to work for two years in a Priority School District (PSD) or a Subject Shortage Area (SSA) teaching assignment. Such teachers can work full-time for an aggregate of up to two school years during their lifetime.
2. Under the 45 percent rule, a retired teacher may return to teaching either on a part time schedule for the whole school year, or a full-time schedule for a part of the school year and earn up to 45 percent of the maximum salary for the job assignment.
3. A retired teacher may elect to have their pension benefits suspended and return to work full time. The teacher's pension benefits would again resume the month following termination of that re-employment.

10) What must be done to become reemployed following my retirement?

Individual school districts hire teachers to meet their staffing needs. If you are a teacher who is over age 62 or who has met the requirements for normal retirement under TRB you may obtain reemployment subject to the 45% rule or as a Subject Area Shortage or Priority School District employee and meet the requirement of TRB by your employer filling out the appropriate form by type of reemployment and submitting the agreement between you and the employer. For individuals who have not reached age 62 or have not obtained normal retirement from TRB the superintendent must as part of the reemployment process submit a certification form, the appropriate form by type of reemployment and a copy of the agreement between you the school district to the TRB. Additionally, to demonstrate a break in employment under age 62 the non "normal" retired member must have a minimum six month break in service to be reemployed as a teacher and receive a pension from TRB. For individuals age 62 or older or eligible for normal retirement there is no requirement that the superintendent certify your employment.

This certification explains the nature of your reemployment and attests that your reemployment is not pursuant to a pre-arranged plan, arrangement, understanding or agreement to return to work between the employer and the reemployed teacher. Such form needs to be submitted 15 days in advance of reemployment, or by September 30, 2016, for school year 2016/17. Failure to file the appropriate form and certification 15 days in advance of reemployment can result in the TRB suspending your pension and offsetting any earnings under reemployment against your pension.

11) May I work in the same school year under the 45 percent rule and as another type of reemployed teacher?

No. A teacher may be reemployed under only one program per school year. If you are a 45 percent rule teacher during a school year, then you may not be reemployed during the same school year under a different category, such as a teaching under the Priority School District or Subject Shortage Area provisions, or a teacher who has suspended their pension.

12) Does my pension accrue additional credited time or increase for salary increases if I suspend the benefits?

No, other than the potential accrual of cost of living adjustments earned while reemployed, your pension benefit will not increase as a result of your reemployment. Nor will you be required to make mandatory contributions into TRB during the period of your reemployment during which your pension benefits are suspended.

13) May I be a substitute teacher and work for the school district after I retire?

Yes, a non-permanent substitute teacher is a separate class of employee who is not within the definition of teacher referenced in Q & A item 1) above. Therefore, you may leave teaching and become a non-permanent substitute teacher immediately. As a non-permanent substitute teacher, you may not work for more than 40 consecutive school days in the same assignment; if you do, you will be considered performing the tasks of a teacher and, thus, be subject to the applicable IRS and TRB rules. Once a reemployed teacher works 40 days as a substitute teacher they may not receive pension benefits and return to work as a substitute or as a teacher in the same district for six months.

14) If I work as a teacher in a Connecticut school district and then, after retirement, in a capacity not covered by TRB, am I subject to the 45 percent rule?

No. If you are a retired teacher who becomes reemployed in a non-TRB covered position, the 45% rule does not apply to your reemployment.

SUBJECT SHORTAGE AREA OR PRIORITY SCHOOL DISTRICT

15) As a Subject Shortage Area or Priority School District teacher, are there salary requirements that must be followed and what benefits must be offered?

The salary requirement is to be paid at a rate at least equal to that rate based on your experience and credentials in the appropriate lane in the hiring school district for the same type of service. In addition, you would be eligible for health benefits provided to active teachers by that district. For those that are reemployed health insurance benefits are not eligible for State of CT TRB financial support. You would not accrue additional pension benefits at TRB. In order to be reemployed as a subject shortage or priority school district teacher, you must conform to the applicable IRS and TRB rules.

16) If I am receiving a pension from TRB and do not get TRB approval for my service as SSA/PSD reemployed teacher, what will be the consequences?

Individuals who are not approved for reemployment by the TRB will have to reimburse TRB for the value of their pension and health insurance benefits for the period of reemployment.

FORTY FIVE PERCENT RULE

17) As a teacher working under the 45 percent rule, are there salary requirements and limitations that must be followed, and what benefits must be offered?

The salary requirement is that the teacher must be paid at a salary rate at least equal to the rate based on your experience and credentials in the appropriate lane in the hiring school district for the same type of service. Your earnings must also be limited to 45 percent of the maximum salary at the highest step at the appropriate lane for the assignment. You are also entitled to health insurance benefits available to other teachers in the system. For those that are reemployed health insurance benefits are not eligible for State of CT TRB financial support. Taking or not taking the health benefit plan cannot be a condition of reemployment.

18) If a school district has a health benefit plan that does not provide for coverage of an individual that is less than full time, must it amend the plan to allow for 45 percent rule teachers to be covered?

Yes, the legislature has determined and intended to allow 45 percent rule reemployed teachers to participate in the health benefit program of the active teachers. The employing school district will have to offer the program on the same proportionate cost basis as any other employee would be offered.

19) If a school district covers all individuals above .5 FTE as 100 percent covered (subject to employee cost share) would the district have to modify the program for 45 percent rule employees?

Yes, the program would have to be modified. In the case of full reimbursement for all .5 FTE, the .5 FTE level would have to be dropped below that to accommodate the 45 percent rule reemployed teachers. (see bullet number 20 for an example)

20) How would the 45 percent rule for reemployed teachers be affected by a contract that provides for proportional coverage by a school system?

A number of school districts currently require that any active member who is over .5 FTE be eligible for proportional coverage. Thus, in the case of a reemployed retired teacher, who is employed under the 45 percent rule, who participates in a plan that costs \$20,000 with a 20 percent cost share, the employee and district cost would be:

Total cost = \$20,000

Employer cost = employer cost percentage x percentage FTE x cost of the plan

Employer cost = .8 x .45 x \$20,000 = \$7,200

The employee would be responsible for remainder i.e. \$12,800.

The reemployed teacher must be eligible to participate in the health benefit plan up to the proportionate share of the time that they are employed. For example, a 30 percent retiree may participate in the health insurance but the district may be responsible for a smaller share, as follows.

In the same situation described directly above but with a 30 percent reemployment, the calculation would be:

Total cost = \$20,000

Employer cost = $.8 \times .3 \times \$20,000 = \$4,800$

The teacher would be responsible for the remaining \$15,200.

HEALTH INSURANCE

21) How will the health benefit plan be determined for teachers that are not subject to a union contract?

These individuals (usually superintendents or assistant superintendents) may choose the health benefit plan as provided for in the administrator group labor agreements.

22) If I am a reemployed teacher, must I take the health benefits?

No, taking the health benefits is optional for the employee.

23) If I am a reemployed teacher may I take only part of the health benefit program (e.g. dental coverage)?

Yes, if the district offers active teachers the option to take only dental, it must offer the same option to retirees.

24) If I receive health benefits from my last employing BOE (a different district from my re-employing district), may I keep that coverage?

Yes. The reemploying district would be responsible for the premium during the period of reemployment.

25) May a retired teacher that is receiving the TRB Medicare supplement plan continue to receive that plan as a reemployed teacher?

Yes, given the operational difficulties of entering and leaving Medicare, TRB has determined that reemployed teachers will be eligible to continue participation in the TRB Medicare supplement plan at full cost, (not simply the employee cost share). For reemployed teachers who take the TRB Medicare supplement plan rather than the district's plan for active teachers, the employing school district can reimburse the reemployed teacher for the full cost of the premiums for the TRB Medicare supplement plan that the person pays.

26) How does the participation in the TRB health benefit program vary by type of reemployment?

Reemployed teachers who remain eligible to receive their monthly pension benefit will have the full unsubsidized TRB health benefit premium deducted from their monthly benefit. The reemploying Board of Education would reimbursement the retiree for the premium.

Reemployed teacher who are not receiving their pension benefit will be provided with a bank debit form to have the full unsubsidized TRB premium debited from their bank account and receive reimbursement from the Board of Education who reemployed them.

27) What is meant by health benefit plan versus employee benefits?

Health benefit plan for purposes of reemployment includes: medical, prescription drugs, dental, vision, hearing, supplemental medical expense, qualified contributions to HSA programs, contributions to, or benefits from, HRA programs, employee assistance programs and health reimbursement programs.

Employee benefits includes any other qualified and nonqualified benefits such as disability insurance, life insurance, annuities and retirement plan contributions (e.g., 403b, 401a, 457 or otherwise), parking allowances, housing allowances, etc.

PENSION BENEFITS SUSPENSION RULE

28) If I have elected to have my pension benefits suspended and return to work full-time, what benefits may I receive?

By having your pension benefits suspended, you are allowed to receive all salary and benefits provided for under the applicable active teacher or administrator contract (if covered by a collective bargaining agreement) or by negotiation (for teachers not covered by collective bargaining agreements).

29) If I intend to work more than one school year, do my pension benefits resume during the summer months.

No, your benefits resume once you are fully re-retired.